



W.P.No.40340 of 2015

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.40340 of 2015

and

M.P.Nos.1 to 3 of 2015

A.Settu

... Petitioner

Vs.

1. The District Collector,
Vellore District,
Vellore.

2. The District Backward Classes and
Minorities Welfare Officer,
Vellore District,
Vellore.

3. The Tahsildar,
Ambur Taluk Office,
Ambur,
Vellore District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records of the second respondent, bearing Na.Ka.N1/72890/1998, dated



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31.08.2012 and quash the same as arbitrary, unconstitutional and illegal in so far as the petitioner is concerned and consequently direct the second respondent to issue notice to the petitioner and give an opportunity of personal hearing.

For Petitioner : Mr.R.Munuswamy

For Respondents : Mr.T.Arun Kumar
Additional Government Pleader

ORDER

The order dated 31.08.2012 canceling the conditional assignment of house site patta granted in favour of the writ petitioner is under challenge in the present Writ Petition.

2. The petitioner states that he is a landless daily wage employee and the Government of Tamil Nadu declared a welfare scheme for issuing free patta for persons living below poverty line. Based on the applications submitted by the petitioner, a house site was assigned in favour of the writ petitioner with a condition that the petitioner should construct a house and reside there. The said house site assigned was canceled on the ground that the petitioner has not constructed a house and was not residing there and thus, the petitioner is constrained to move the present writ petition.



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3. The learned counsel for the petitioner mainly contended that no Show Cause Notice was issued to the petitioner before issuing the impugned order of cancellation of conditional assignment and thus, the order is in Violation of Principles of Natural Justice.

4. That apart, the petitioner faced several difficulties in entering into the land and to put up a construction there and therefore the authorities ought to have considered these mitigating factors before issuing the impugned order.

5. The learned Additional Government Pleader appearing on behalf of the respondents objected the said contention by stating that it is a conditional patta issued in favour of the writ petitioner and others that they should construct a house and reside there. The scheme is specific that the landless poor people should be assigned free patta for their livelihood by constructing a house and therefore, it is a pre-condition that the petitioner should construct a house and reside there. In the event of failure, the authorities competent are empowered to cancel the free patta granted in favour of the beneficiaries.



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6. It is contended that the allotment and assignment of patta issued to the beneficiaries were canceled, after giving due advertisement in the locality, since the allottees have not constructed a house in the house site for more than ten years as per the condition of the patta issued to them. As per the condition of the patta, the beneficiaries should construct a house within six months in the house site within 10 years from the date of issuance of patta. However, nobody came forward to construct a house in the house site within six months. Therefore, the authorities canceled the patta granted in favour of the petitioner.

7. Under the welfare scheme, free patta was granted to the petitioner. Welfare schemes are implemented at the cost of the public funds. Thus, the condition imposed plays an important role and the beneficiaries of free house site patta are expected to comply with the conditions, since they have availed the public benefit through Government Welfare Schemes.



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8. That being the factum, in the present case, admittedly the petitioner has not constructed house within a period of six months as per the condition imposed in the free patta. Even after ten years, the authorities found that no house was constructed. Therefore, they have canceled the free patta.

9. The learned counsel for the petitioner reiterated that no Show Cause Notice was issued to the writ petitioner. In this regard, such Show Cause Notice may not be required in view of the fact that the condition was imposed at the time of issuance of patta to the petitioner and he was very much aware about such condition and issuing a Show Cause Notice would be an empty formality. Only the verification is required in such circumstances, whether the conditions stipulated are complied with or not. If the house has not been constructed, it is self evident that the condition imposed has been violated. The principles of Show Cause Notice is intended to provide an opportunity when the petitioner is required to submit his defense or objection or otherwise. However, in the present case, the condition to construct a house within a period of six months was stipulated even in the patta granted to the petitioner and he is very much aware of the condition and non compliance would not provide any



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cause to claim that no notice was issued to him. Therefore, the Principles of Natural Justice is not an empty formality. It must have certain purpose and that being the very contention, rest deserves no merits. Upon consideration of the fact that the assignment was granted long before filing of the writ petitions in the year 2000 and now 23 years lapsed and that the assignment was canceled mainly on the ground that the petitioner has not complied with the condition imposed in the patta. If at all the petitioner is still under poverty line, he is at liberty to submit an application afresh before the competent authorities, if any such welfare scheme is in force.

10. With this liberty the writ petition stands dismissed. No cost. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

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